

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,) 18-cr-579-2
)
vs.)
) Philadelphia, PA
ARTHUR ROWLAND,) November 4, 2019
) 10:06 a.m.
)
Defendant.)

TRANSCRIPT OF SUPPRESSION HEARING
BEFORE THE HONORABLE GERALD J. PAPPERT
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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I N D E X

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Colloquy with Counsel

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Colloquy

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1 (The following was heard in open court at 10:06 a.m.)

2 THE COURT: Mr. Shapiro, how are you? Mr.
3 Schlessinger?

4 MR. SHAPIRO: Good morning, Your Honor.

5 THE COURT: Agent, how are you?

6 AGENT: I'm fine, thank you.

7 THE COURT: Good. Nice to see you. Okay, I've read
8 everything, I'm ready to go. Who wants to start?

9 MR. SCIOLLA: Judge, we're gonna withdraw the
10 motion.

11 THE COURT: All righty.

12 MR. SCIOLLA: We're gonna withdraw the motion, and
13 also Mr. Rowland is prepared to accede to the continuance
14 motion with regard to the new trial date of January 6th. So
15 we can put that on the record, if you want to have it that
16 day.

17 THE COURT: When did you make the decision to
18 withdraw the motion?

19 MR. SCIOLLA: This morning.

20 THE COURT: Okay.

21 MR. SCIOLLA: Sorry.

22 THE COURT: Sorry?

23 MR. SCIOLLA: That's not good enough?

24 THE COURT: No. Not really.

25 MR. SCIOLLA: Strategically, Judge, it's just

1 something that we had to decide, and that's the decision that
2 we --

3 THE COURT: How much did you think that through
4 before you filed the thing and caused the Court to spend a
5 number of hours working on it?

6 MR. SCIOLLA: Well, we thought about it, Your Honor,
7 for some period of time prior to that filing, and then again
8 thereafter. But I had a filing date deadline so I had to
9 comply with that, and I did so.

10 THE COURT: So what changed after you filed it?
11 What legal analysis did you come up with that was different?
12 What case --

13 MR. SCIOLLA: Something --

14 THE COURT: -- handed down by the Supreme Court
15 materially changed it?

16 MR. SCIOLLA: Your Honor, not anything that came
17 down by the Supreme Court, but with an eye towards what might
18 come up at trial, it was decided that it would be in my
19 client's best interest to not proceed with the motion. There
20 may be trial issues that otherwise would be affected by the
21 outcome of the trial -- of the motion, and the hearing. So
22 that was the decision that --

23 THE COURT: All right. So you don't purport to try
24 to reserve an ability to raise this again, do you?

25 MR. SCIOLLA: No, Your Honor.

1 THE COURT: All right. So we'll I guess deny the
2 motion with prejudice.

3 MR. SCIOLLA: Well, if it's withdrawn, Judge, I
4 don't know how you can deny it. I guess you could deny my
5 right to re-file, but --

6 THE COURT: I'll figure it out.

7 MR. SCIOLLA: -- I'm not asking for a substantive
8 decision on the motion.

9 THE COURT: What about if I'm prepared to give you
10 one?

11 MR. SCIOLLA: I don't know that you can force the
12 defendant to go forward with a motion that he withdraws.

13 THE COURT: I don't know, I've read it. I have some
14 impressions.

15 MR. SCIOLLA: Well, I think the ultimate option
16 belongs to the accused.

17 THE COURT: What do you think?

18 MR. SHAPIRO: I'm not sure it so much has to do with
19 there being a defendant, the defendant being a defendant, I
20 mean in terms of filing a motion, the defendant's a party
21 before the Court like any other party. I really think it more
22 has to do with the Court's view of deciding issues that are no
23 longer alive.

24 THE COURT: Hum. Okay.

25 MR. SCIOLLA: I don't -- with all due respect,

1 Judge, I don't think the Government can force the defendant to
2 litigate a motion.

3 THE COURT: I didn't ask him to, and he's not asking
4 me to.

5 MR. SCIOLLA: Okay, all right.

6 THE COURT: Okay. So, what's left now?

7 MR. SCIOLLA: Just an accession to the -- there was
8 a motion to continue the trial date, which was today, and --

9 THE COURT: Did we have all that -- that's already
10 taken care of.

11 MR. SCIOLLA: Right. There's a new date of January
12 -- I just found out today. I didn't get a copy from the
13 Clerk's Office. I do have a copy now from Mr. Lucini.

14 THE COURT: There's a motion -- Jeff, didn't we
15 already extend the trial date?

16 MR. SCIOLLA: I think you asked Mr. Coleman to file
17 in our telephone conference.

18 THE COURT: Right.

19 MR. SCIOLLA: And then you asked -- you suggested
20 that we today would join in that motion to do so, personally
21 from you.

22 THE COURT: Okay.

23 MR. SCIOLLA: And that's what Mr. Rowland prepared
24 to do today so --

25 THE COURT: Okay. Do we have a speedy trial issue

1 or is it complex?

2 THE CLERK: We're good.

3 THE COURT: We're good now, with Mr. Rowland's
4 waiver? So he's waiving any speedy trial issues?

5 MR. SCIOLLA: Cr.

6 THE COURT: Okay. Does anybody have anything else
7 today?

8 MR. SCIOLLA: I have one other question, Judge. I
9 noticed in the scheduling order that there's a pretrial
10 conference for the 16th of December.

11 THE COURT: This is the new schedule?

12 MR. SCIOLLA: Yes, sir.

13 THE COURT: Okay.

14 MR. SCIOLLA: I received it today. Would I be able
15 to participate in that, Judge, by way of phone? I don't think
16 I'll have any pretrial issues before that.

17 THE COURT: That's up to you and your client.

18 MR. SCIOLLA: Okay. Because I won't be here --

19 THE COURT: If you want to phone it in literally and
20 figuratively, you can go ahead and do that.

21 MR. SCIOLLA: Yes. I won't be in the city, that's
22 the only problem.

23 THE COURT: Okay. Well, we're gonna have the
24 conference. You decide how you best want to proceed.

25 MR. SCIOLLA: Well, I appreciate the Court's

1 courtesy in that regard.

2 THE COURT: Sure.

3 MR. SCIOLLA: Thank you, Your Honor.

4 THE COURT: All right. Then I guess we're
5 adjourned.

6 MR. SCIOLLA: Yes, sir.

7 THE COURT: We'll enter the appropriate order.

8 THE CLERK: All rise.

9 (Proceeding concluded at 10:11 a.m.)

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C E R T I F I C A T I O N

I, Sandra Carbonaro, court approved transcriber,
certify that the foregoing is a correct transcript from the
official electronic sound recording of the proceedings in the
above-entitled matter.

/s/Sandra Carbonaro

SANDRA CARBONARO

Diana Doman Transcribing, LLC

AGENCY

02/02/22

DATE